



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/797,990

03/11/2004

Raymond J. Archacki JR.

210_657

5162

20874

7590

01/31/2006

WALL MARJAMA & BILINSKI
101 SOUTH SALINA STREET
SUITE 400
SYRACUSE, NY 13202

EXAMINER

QURESHI, AFSAR M

ART UNIT

PAPER NUMBER

2667

DATE MAILED: 01/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/797,990

Applicant(s)

ARCHACKI, RAYMOND J.

Examiner

Afsar M. Qureshi

Art Unit

2667

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-20 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/27/2005.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Response to Amendment

1. This action is responsive to amendments received on 10/17/2005.
2. **The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.**
3. Claims 1, 7-10, and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by Harris (U.S. Patent No. 6,842,461).

Regarding claim 1, Harris teaches a data retransmission system including sending a broadcast message from a base station (BTS) to remote wireless mobile units (MU), then retransmitting the originally broadcast message to only those units requesting retransmission (see abstract and figures 3 and 5-6). The retransmission is performed through a second channel different from the first channel and it is a method different than the first broadcasting method because only those devices that did not receive the original broadcast message (a subset of the original set of devices) are sent the retransmission (see column 1, lines 34-42) and (column 5, lines 26-36), and recording a list of those devices that did not receive the original broadcast message (see column 5, lines 33-36).

Regarding claims 7-9 and 12, Harris teaches a method of indicating the number of users that received a message sent vs. the number of users that did not receive the message and the message is sent via wireless communications (see column 5, lines 30-36).

Regarding claim 10, in addition to the features described above, Harris teaches determining a unique power requirement for each remote device and makes the proper adjustment prior to retransmission (see column 6, lines 55-61).

4. Claim 15 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harris.

Regarding claim 15, in addition to the above described features, Harris does not explicitly teach receiving an acknowledgement message from the mobile users, however, Harris does teach of a negative acknowledgement (NAK) received from the mobile users implying that the receiver does acknowledge not receiving certain data (see column 4, lines 40-45). Therefore, it is implied by the reference that an acknowledgement message is normally transmitted in this particular instance for receiving data correctly. Further, the Examiner takes official notice that in instances where the NAK is used, the acknowledgment is also used. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have taken the teachings of Harris and arrived at the features recited in claim 15.

Regarding claims 19-20, Harris teaches a method of indicating the number of users that received a message sent vs. the number of users that did not receive the message and the message is sent via wireless communications (see column 5, lines 30-36).

5. Claims 2-6, 11, 13-14 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harris in view of Sinclair (U.S. Patent Publication No. 2003/0073461).

Harris does not teach controlling a thermostat via the wireless communications systems disclosed therein. Sinclair, however, discloses a wireless communications system that controls remote devices. The operations of Sinclair explicitly teaches controlling a thermostat, and broadcast communications, similar to the communications systems of Harris (see [0157, 0159 and 0161-0163]). Also, the Internet is used as a medium to control the thermostat remotely (see [0167]).

Motivation to combine Sinclair with Harris is evident from the discussion present in [0169] of Sinclair, which discusses the flexibility of accommodating various types of wireless networking needs. Additionally, Sinclair discloses the desire to provide a backup system of wireless control systems in the event of a power failure, which is a limiting factor-in hardwired and land line control systems (see [0007]). The system disclosed in Harris also discloses the desire to have an efficient means for communications (see column 1, lines 28-30). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine these two references and arrive at the invention disclosed in claims 2-6, 11, 13-14 and 16-18.

Response to Arguments

6. Applicant's arguments filed 10/17/2005 have been fully considered but they are not persuasive.

The Applicant added a limitation of determining those remote devices that did not respond by sending acknowledgment message back to central unit and sending copy of

actual broadcast message individually. The Examiner believes that cited art, Harris, clearly anticipates the added limitation as discussed in the rejection of claim 1 above.

The Applicant argued (page 6) "*The determination as to which of those remote sites are not able to receive is determined by subtracting from the sum of all of the devices...*". From here, the Examiner conclude that the Applicant is able to determine *total number* of those remote devices that did not respond, however, it does not indicate the *individual remote devices* in need of re-sending copy of actual broadcast message. On the other hand, the cited art, Harris, clearly identifies the individual remote devices by sending in NACK messages and, in turn, receives a repeat message, essentially anticipating the added limitation.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2667

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Afsar M. Qureshi whose telephone number is (571) 272 3178. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on (571) 272 3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



1/24/2006

**AFSAR QURESHI
PRIMARY EXAMINER**